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No. 01-1231

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

CONNECTICUT DEPARTMENT OF PUBLIC SAFETY, *et al.*,
Petitioners,

v.

JOHN DOE, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

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BRIEF OF THE NATIONAL GOVERNORS ASSOCIATION, NATIONAL CONFERENCE OF STATE LEGISLATURES, COUNCIL OF STATE GOVERNMENTS, INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION, NATIONAL LEAGUE OF CITIES, NATIONAL ASSOCIATION OF COUNTIES, AND U.S. CONFERENCE OF MAYORS AS *AMICI CURIAE* SUPPORTING PETITIONERS

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QUESTION PRESENTED

Whether the Due Process Clause prevents a State from making accessible information about sex offenders in a publicly disseminated registry without first affording such offenders individualized hearings on whether they are currently dangerous.

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INTEREST OF THE *AMICI CURIAE*

Amici are organizations whose members include state, county and municipal governments and officials throughout the United States.[1] *Amici* have a compelling interest in legal issues that affect state and local governments.

The incidence of sex crimes is a matter of great public concern. Sex crimes frequently impose both physical injury and emotional trauma on their victims. While the States have greatly increased their prosecution efforts, most sex offenders are released eventually to the community. Studies have found that a substantial number of sex offenders will reoffend following their release and that reoffending can occur more than twenty years later. As one report concludes, "[m]any sex offenders commit a wide range and large number of sexually deviant acts during their lives and show a continued propensity to reoffend." Kim English, *et al.*, U.S. Dep't of Justice, *Managing Adult Sex Offenders in the Community – A Containment Approach* 2 (1997).

"Sex crimes flourish in secrecy [and] [s]ex offenders have secretive and manipulative lifestyles." *Id.* Every State has therefore enacted a statute requiring sex offenders to register and authorizing public disclosure of relevant information. Connecticut, like many other States, makes sex offender registration information available through the Internet without conducting an individualized assessment of each registrant's reoffense risk.

The court of appeals held that the Due Process Clause requires Connecticut to provide each sex offender with a hearing to determine whether "they are particularly likely to

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[1] The parties have consented to the filing of this *amicus* brief and their letters of consent have been filed with the Clerk. This brief was not authored in whole or in part by counsel for a party, and no person or entity other than *amici* or their members made a monetary contribution toward its preparation or submission.

be currently dangerous before being labeled as such in a publicly disseminated registry." Pet. App. 39a. Affirmance of this holding would undermine the ability of the States to protect their citizens from recidivist sex offenders because the prediction of a sex-offender's recidivism risk cannot be made without substantial error rates.

Because of the importance of this issue to *amici* and their members, this brief is submitted to assist the Court in its resolution of this case.

SUMMARY OF ARGUMENT

1. Sex offenses impose an extraordinary toll on society. In addition to the costs of medical and mental health care, these crimes impose on their victims both physical injury and great emotional trauma. State and local governments have a compelling interest in reducing the high incidence of sex crimes and in protecting their citizens from becoming victims of these crimes.

Numerous studies have found that a substantial portion of convicted sex offenders commit new sex offenses following their release to the community. For example, a study of released child molesters found a 52 percent failure rate for committing a new sex offense over a twenty-five year period. *See* Robert A. Prentky, *et al.*, *Recidivism Rates Among Child Molesters and Rapists: A Methodological Analysis*, 21 Law & Hum. Behav. 635, 643 (1997). Moreover, in several studies which interviewed sex offenders, the offenders admitted to committing vastly more sex offenses than those for which they were arrested. Research has also shown that some sex offenders reoffend as late as twenty years following their release.

Predicting whether a particular sex offender is likely to reoffend is a matter of great complexity as there are numerous factors of both a static and dynamic nature that may be relevant to the prediction. Moreover, under the current state

of sex offender recidivism research, the available methods of conducting individualized risk assessments have low predictive accuracy. Furthermore, "[t]he prediction of future behavior can never be done with certainty since people and circumstances can and do change." R. Karl Hanson, *The Development of a Brief Actuarial Risk Scale for Sexual Offense Recidivism* 2 (1997).

Because the prediction of recidivism by individual offenders is fraught with uncertainty, a State can reasonably choose to protect it citizens by making relevant sex offender information accessible to the public without conducting individualized risk assessments. Indeed, this is precisely the type of area where "'legislative options must be especially broad and courts should be cautious not to rewrite legislation.'" *Kansas v. Hendricks*, 521 U.S. 346, 360 n.3 (1997) (citation omitted).

2. Connecticut's disclosure of sex offender registration information by making it publicly accessible through the Internet does not implicate a liberty interest protected under the Due Process Clause. Neither statutory nor constitutional law creates any right or legitimate expectation on the part of a sex offender in preventing public disclosure of registration information. Making sex offender information publicly accessible does not involve a governmental restraint on a sex offender's freedom of action or result in the "denial of any right vouchsafed to him by the State." *Paul v. Davis*, 424 U.S. 693, 712 (1976). The Due Process Clause thus does not require that Connecticut provide sex offenders with a hearing to assess whether they are "particularly likely to be currently dangerous" before disclosing their registration information. Pet. App. 39a.

Before the Connecticut program was enjoined, the State's registry made available "the registrant's name, offense, current residence address, physical description and photograph." Pet. App. 47a. A registrant's conviction for a sex offense is

a public record. Moreover, addresses are found in numerous other public records. While a State can choose to protect address information from public disclosure, there is no constitutional requirement that it do so. Finally, publication of an offender's photograph does not implicate constitutionally protected liberty. *See Paul*, 424 U.S. at 695, 712.

While the court of appeals acknowledged that under *Paul* a claim of stigmatic injury does not state a violation of the Due Process Clause, the court further reasoned that the State's registration requirement raises the sex offenders' injury to the level of a Due Process violation. This reasoning ignores that the obligation to register is imposed only after each registrant has been provided full pre-deprivation process in the form of a criminal trial. Because the State has already provided sex offenders with an adequate remedy to protect against unjustified impositions of the registration obligation, the Connecticut scheme does not violate due process. *Cf. Dixon v. Love*, 431 U.S. 105, 113-14 (1977).

3. The court of appeals' hearing requirement would also undermine public safety. While the court's requirement contemplates some probability assessment of an offender's risk of reoffense, such predictions are highly problematic because the actual base rates of sex offender recidivism are unknown and reported rates are believed to widely underestimate the actual level of reoffending. Moreover, the available methods of predicting whether a sex offender will engage in recidivism have only moderate predictive accuracy and thus have substantial error rates. Finally, the court's "currently dangerous" standard ignores research showing that "most reoffenses [did] not occur within the first several years" following release and that some sex offenders committed a new sex offense more than twenty years later. Prentky, *Recidivism Rates*, 21 Law & Hum. Behav. at 652. Furthermore, even those offenders classified as low risk may

reoffend because of future changes in their post-hearing environment and circumstances. The judgment of the court of appeals should therefore be reversed.

ARGUMENT

THE DUE PROCESS CLAUSE DOES NOT REQUIRE A STATE TO PROVIDE A HEARING TO ASSESS A CONVICTED SEX OFFENDER'S RISK OF REOFFENSE BEFORE MAKING THE OFFENDER'S REGISTRATION INFORMATION ACCESSIBLE TO THE PUBLIC

I. SEX CRIME IS A SOCIAL PROBLEM OF EXTRAORDINARY MAGNITUDE [2]

The incidence of sex crimes is a matter of great public concern. State and local governments have a compelling interest in reducing the disturbingly high number of these crimes, which impose enormous harm on their victims.

It is widely acknowledged that government statistics underreport the level of sex crimes. *See* Robert A. Prentky, *et al.*, U.S. Department of Justice, *Child Sexual Molestation: Research Issues* 1 (1997) (noting that "[t]he assumption that sexual crimes against children and teenagers are underreported is now commonly accepted"). Various studies have concluded, however, that the number of such offenses is enormous. *See, e.g.*, Ted R. Miller *et al.*, U.S. Department of Justice, *Victim Costs and Consequences: A New Look* 2-3 (1996). For example, the Miller study (which reviewed other studies) estimated that from 1987 through 1990, children were the victims of an annual average of 71,000 rapes and 114,000 acts of other forms of sexual abuse. *See Victim Costs and Consequences*, at 3. Adults were the victims of

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[2] This section is substantially similar to the discussion of sex offender recidivism contained in *amici*'s brief filed in *Godfrey v. Doe*, No. 01-729, *cert. granted*, Feb. 19, 2002.

1,133,000 rapes and sexual assaults. *See id.*; *see also id.* at 5 (noting study that surveyed adult women finding that in 1990, 683,000 women were raped, but which did not include rapes of persons under the age 18 or males).

Sex offenses impose on their victims substantial costs of both a tangible and intangible nature. *See id.* at 9, 14-15. Beyond the costs of medical and mental health care, such crimes can cause both physical injury and great emotional trauma. As another report explains, "the trauma associated with sexual assault include shame, self-blame, fear, developmental crises, post-traumatic stress disorder, and the threat or actuality of physical violence, terror, and injury." Kim English *et al.*, U.S. Department of Justice, *Managing Adult Sex Offenders in the Community-A Containment Approach* 1 (1997). Moreover, "what might be regarded by some as a relatively minor type of sexual assault (e.g., 'just fondling') can be extremely traumatic to a victim who trusted the perpetrator."[3] *Id.*

Most troubling, in several studies sex offenders have admitted to "vastly more" criminal paraphilic acts "than those for which they were convicted." Prentky, *Child Sexual Molestation*, at 1. In one study, which conducted confidential interviews with 561 non-incarcerated paraphiliacs, 224 of the subjects reported committing 5,197 acts of non-incestuous child molestation against 4,435 female victims and 153 of the subjects reported committing 43,100 acts against 22,981 male

[3] According to a recent Justice Department report, 34.2% of child sexual assaults were committed by a family member of the victim; another 58.7% were committed by acquaintances of the victim. *See* U.S. Department of Justice, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics* 10 (2000) (Table 6). With respect to children under the age of 12, the rate of sexual assault by family members is even more pronounced: 48.6% of sexual assaults on children under age 6 were committed by a family member and 42.4% of sexual assaults on children ages 6 to 11 were committed by a family member. *Id.*

victims. *See* Gene G. Abel *et al.*, *Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs*, 2 J. Interpersonal Violence 3, 19 (1987). With respect to incestuous acts, 159 of the study's subjects reported committing 12,927 acts of incest against 286 female victims and 44 subjects reported committing 2,741 acts of incest against 75 male victims. Finally, 126 of the subjects reported committing 907 acts of rape against 882 victims. *See id.*[4]

Another study of 23 rapists and 30 child molesters participating in a treatment program also indicates that sex offenders commit far more sex offenses than they are arrested for. While "the rapists had an average of less than two arrests each, they collectively admitted to more than 5,000 offenses including 319 child molestations and 178 rapes." Virginia Criminal Sentencing Commission, *Assessing Risk Among Sex Offenders in Virginia* 43 (2001) (discussing Robert E. Freeman-Longo & Geral T. Blanchard, *Sexual Abuse in America: Epidemic of the 21st Century* (1998)). Moreover, while the 30 child molesters had "an average of only 1.5 arrests each," they "admitted to over 20,000 acts, including nearly 6,000 child molestation offenses and 213 rapes of adult women." *Id.* Finally, using polygraphy as part of its treatment program, the Colorado Department of Corrections found that "while official records indicated an average of only two victims per offender," the offenders admitted to an "average 184 victims per inmate." *Id.* As one report concludes, "[m]any sex offenders commit a wide range and large number of sexually deviant acts during their lives and show a continued propensity to reoffend." English, *Managing Adult Sex Offenders in the Community*, at 2.

In response to the problem of sex crimes, the States have substantially increased their prosecution efforts. Since 1980,

[4] One hundred forty two of the study's subjects admitted to 71,696 acts of exhibitionism. *See* Abel, *Self-Reported Sex Crimes*, 2 J. Interpersonal Violence, at 19.

the States have "more than doubled" the annual rate of conviction for rape, child molestation, and sexual assault and are now incarcerating more than four times as many sex offenders as they did in 1980.[5] *See Managing Adult Sex Offenders*, at 1; U.S. Department of Justice, *Correctional Populations in the United States, 1997* 6 (2000) (table 1.13). Nonetheless, "[t]he vast majority of sex offenders are released eventually" to the community. Prentky, *Child Sexual Molestation*, at 8.

A large body of research supports the conclusion that a substantial portion of released sex offenders will reoffend. *See* Virginia Crim. Sent. Comm'n, *Assessing Risk*, at 17-18 (listing numerous studies). For example, a study, discussed more fully below, found that 115 treated child molesters had a 52 percent failure rate over a 25 year period when measured by a re-arrest for a new sex offense. *See* Robert Prentky *et al.*, *Recidivism Rates Among Child Molesters and Rapists: A Methodological Analysis*, 21 Law & Hum. Behav. 635, 643-44 (1997).[6] The same study tracked 136 rapists over the same period and found a 39 percent failure rate when measured by a re-arrest for a new sex offense. *Id.* at 635, 642-43. Another study of 191 child molesters (which followed 93% of the molesters for more than 15 years) found a 35% rate of reconviction for a new sex offense. R. Karl Hanson *et al.*, *A Comparison of Child Molesters and Nonsexual Criminals: Risk Predictors and Long-Term Recidivism*, 32 J. Res. in Crime & Delinq. 325, 332 (1995). As demonstrated by these

[5] Between 1980 and 1992, "the number of adults convicted annually of rape, child molestation, or other forms of sexual assault more than doubled" from 8,000 to 19,100. *Managing Adult Sex Offenders*, at 1. Between 1980 and 1994, the number of sex offenders in state prisons increased from 20,500, to 88,100. *See id.*

[6] "Failure rate is an estimate [of recidivism] that takes into account the amount of time each offender has been on the street and thus able to reoffend." Prentky, *Recidivism Rates*, 21 Law & Hum. Behav. at 641. *See also* discussion *infra* at pp. 10-11 n.8.

studies, as well as the studies of self-reported victimizations, *see* discussion *supra* at pp. 6-7, state and local officials have a justifiably compelling concern that released sex-offenders will engage in recidivist acts.

This is not to deny the existence of research suggesting lower recidivism rates than those cited above, *see* Virginia Crim. Sent. Comm'n, *Assessing Risk*, at 17-18 (listing studies), or that the "[t]he literature on sex offenders shows considerable variability in estimates of recidivism rates." Prentky, *Child Sexual Molestation*, at 11. There are, however, substantial "methodological differences in existing studies." *Id.* at 10. Such factors as "differences in the definition of 'reoffense,' in the type of criminal offense indexed, and in the length of the exposure period being considered" contribute to "this variability." *Id.*

Most of these factors result in the *underestimation* of recidivism rates. For example, a study which measures recidivism based on convictions for a new sex offense will have lower rates than one which measures recidivism based on arrests. An offender, however, may be acquitted because witnesses "may refuse. . . to testify," or the charge may be "reduced in a plea agreement." Virginia Crim. Sent. Comm'n, *Assessing Risk*, at 7; *see also* Prentky, *Child Sexual Molestation*, at 11. Moreover, since many sex offenses are never reported to law enforcement authorities (and even if reported, the perpetrator may not be identified or caught), there is an inherent bias towards lower recidivism rates in most studies. *See* Prentky, *Recidivism Rates*, 21 Law & Hum. Behav., at 641. As the American Psychiatric Association's Task Force explains, "[s]exual offenses are grossly underreported, and for this reason most measures of recidivism or treatment outcome are flawed." American Psychiatric Association, *Dangerous Sex Offenders* 129 (1999); *see also id.* at 132-33 ("official arrest rates do not reflect the actual number of acts committed by any paraphilic individual").

Thus, while "rearrest rates and reconviction rates are frequently used, the most accurate, although potentially still flawed, outcome variable may be a combination of these rates and self-reported sexual behaviors that are present in only a few of the reported studies." *Id.* at 129.

Moreover, most studies use finite periods to calculate recidivism rates and express the rate as a "simple . . . proportion of individuals who have reoffended during the study period;" a shorter period will result in a lower rate as the study excludes those who reoffend after the end of the period. *See* Prentky, *Recidivism Rates*, 21 Law. & Hum. Behav., at 641.[7] Furthermore, because discharged offenders have different release dates and some offenders will commit new crimes and be re-incarcerated, all study subjects are not "on the street and thus able to reoffend" for the full study period. *Id.* Thus, recidivism studies which use "simple percentages" will "*underestimate* the rate of recidivism." *Id.*; *see also* Prentky, *Child Sexual Molestation*, at 11.

To show how many studies underestimate recidivism, one study followed 115 child molesters and 136 rapists who were released over a 25-year period from the Massachusetts Treatment Center for Sexually Dangerous Persons after "being found no longer sexually dangerous." Prentky, *Recidivism Rates*, 21 Law & Hum. Behav., at 637. In addition to using the traditional method of simple percentages, the study used survival analysis to determine the probability that a released offender would either be charged with, convicted of, or imprisoned for a new sex offense over the study period. *See id.* at 650; *see also* Prentky, *Child Sexual Molestation*, at 11-14. Using the arrest data, the study estimated that at 25 years there was a 52 percent failure rate[8] for committing a

[7] According to Prentky, four-fifths of the studies were based on a one-year period. Prentky, *Recidivism Rates*, 21 Law & Hum. Behav., at 636.

[8] As the Prentky study explains, "[r]ecidivism may be operationalized in a variety of different ways. . . . [T]he most common method is to report the simple proportion of individuals known to have reoffended during the study period." *Recidivism Rates*, 21 Law & Hum. Behav., at 641. "This method will *underestimate* the rate of recidivism, because some of those individuals who were in the community for a briefer period of time may still reoffend." *Id.* Another method is to calculate the failure rate, which "is an estimate that takes into account the amount of time each offender has been on the street and thus able to reoffend. . . . [P]rocedures that take into account time at risk (or exposure time) yield much more accurate estimates of recidivism." *Id.*

new sexual offense, with an average of 3.64 years before reoffense; using the conviction data, it estimated a 41 percent failure rate; and using the imprisonment data, it estimated a 37 percent failure rate.[9] *See Recidivism Rates*, 21 Law & Hum. Behav., at 643-44; *see also Child Sexual Molestation*, at 12-13.

Most significantly, the study found that "[c]ontrary to conventional wisdom, most reoffenses do not occur within the first several years after release [and that] child molesters in [the] sample reoffended as late as 20 years following release." Prentky, *Child Sexual Molestation*, at 14. The study further concluded that if it "had been restricted to the conventional exposure period of 12 to 24 months, approximately 40 to 45 percent of new sexual charges would have been missed [and even] if followup had been extended to 60 months, 30 percent of new sexual charges would still have been missed." *Id.*[10] While the study's authors advise that the

[9] These failure rates compared with simple percentage rates of 32% for a new sex offense charge, 25% for a new sex offense conviction, and 23% for a new sex offense imprisonment. Prentky, *Recidivism Rates*, 21 Law & Hum. Behav., at 644. The use of a simple percentage thus resulted in underestimation of reoffense rates by 38 to 39%. *Id.* Twenty six percent of rapists were charged with a new sexual offense "with an average of 4.55 years . . . before reoffense." *Id.* at 642. The failure rate calculated on this basis was 39%. *Id.*

[10] Although not as pronounced, the study found with respect to rapists that if it had "restricted our follow-up to the convention[al]. . . period of

"marked heterogeneity of sexual offenders precludes automatic generalizations of [these] rates . . . to other samples," and that "actual rates may differ considerably depending on the composition of the sample," the authors nonetheless recognize "the proclivity of a core subgroup of sexual offenders to reoffend." Prentky, *Recidivism Rates*, 21 Law & Hum Behav., at 656. And as explained above, there are numerous other studies that suggest a similarly high rate of recidivism. *See id.* at 653.

Thus, while some sex offenders do not reoffend, many do. Predicting whether a particular sex-offender is likely to reoffend is, however, a matter of great complexity as there are numerous factors of both a static and dynamic nature that may be relevant in making the assessment. *See, e.g.*, R. Karl Hanson & Andrew Harris, Solicitor General of Canada, *Dynamic Predictors of Sexual Recidivism* 3 (1998) (available at http://www.sgc.gc.ca/epub/corr/e199801b/e199801b.htm). The difficulty is compounded by the inchoate nature of the criminological and scientific research. *See* R. Karl Hanson, Solicitor General of Canada, *The Development of a Brief Actuarial Risk Scale for Sexual Offense Recidivism* 3 (1997) (available at http://www.sgc.gc.ca/epub/corr/e199704/e199704.htm) (noting that "[t]here have been few attempts to develop objective risk scales specifically for sexual offense recidivism").

There is substantial research which suggests that clinical assessments of sex offenders' dangerousness have low predictive accuracy. R. Karl Hanson, *What Do We Know About Sex Offender Risk Assessment?*, 4 Psychol., Pub. Pol'y, & L. 50, 54 (1998). One researcher writes that "[a]lthough clinical predictions of risk are routine in many fields, the

12 or 24 months, we would have erred by approximately 30% or 25%, respectively." Prentky, *Recidivism Rates*, 21 Law & Hum. Behav., at 645. Moreover, use of a five year period would still have resulted in "miss[ing] approximately 20% of the new charges." *Id.*

accuracy of these risk assessments has been unimpressive." *Id.* (citations omitted). In this expert's view, "[t]he clinical prediction of sexual offender recidivism is no exception." *Id.* Hanson and another expert have concluded that "the average predictive accuracy of professional judgment to predict sex offense recidivism is only slightly better than chance." R. Karl Hanson & David Thornton, Solicitor General of Canada, *Static 99: Improving Actuarial Risk Assessments for Sex Offenders* (1999) (available at http://www.sgc.gc.ca/epub/corr/e199902/e199902.htm); *see also* Hanson, *Sex Offender Risk Assessment*, 4 Psychol., Pub. Pol'y, & L., at 54.[11]

Moreover, while it has been suggested that actuarial methods of risk assessment are superior to clinical prediction, *see* Virginia Crim. Sent. Comm'n, *Assessing Risk*, at 14 (summarizing literature), "[a] longstanding controversy exists within the field of psychology over the relative merits of actuarial (or statistical) versus clinical predictions." Thomas R. Litwack, *Actuarial Versus Clinical Assessments Of Dangerousness*, 7 Psychol., Pub. Pol'y, & L. 409 (2001). In any event, although "researchers have made significant advances

[11] There is some evidence suggesting that clinical assessments which are structured to review a standardized list of risk factors have substantially greater predictive accuracy than unguided clinical assessments. *See* Hanson, *Sex Offender Risk Assessment*, 4 Psychol., Pub. Pol'y, & L., at 55. Hanson found an average correlation of .23 for guided clinical assessments versus a correlation of .07 for unguided assessments. *See id.* There is, however, "no explicit method of translating combinations of individual risk factors into overall recidivism probabilities" and "[n]one of the individual risk factors are sufficiently discriminating to justify their use in isolation." *Id.* at 62.

"Correlation coefficients can range from –1 to +1, with 0 indicating no predictive accuracy and values farther from 0 indicating greater predictive accuracy." *Id.* at 53. Thus a correlation of +1 indicates a perfect positive correlation between variables and –1 indicates a perfect negative correlation.

in risk assessment procedures" with respect to the prediction of "general criminal recidivism," Hanson, *Sex Offender Risk Assessment*, 4 Psychol., Pub. Pol'y, & L., at 50, "these general measures have not been particularly effective in predicting sexual recidivism" of individual offenders. *Id.* at 52. In part, this is because "[t]here has been relatively little empirical research on how best to combine risk factors for sexual offenders." *Id.* at 62; *see also id.* at 63-64 (discussing use of various actuarial scales).

The current actuarial methods—which rely principally on static factors—have at best moderate predictive accuracy with respect to sex offenses.[12] *Id.* at 63-64. These scales, however, "cannot even claim to address all the relevant static risk factors," *id.* at 65, and "a reliable set of dynamic risk factors has yet to be established." *Id.* at 68. As Hanson further explains, "[t]he research on dynamic risk factors for sexual offenders is just beginning, and many of the effects need to be replicated before they can be confidently used to predict risk." *Id.* Thus, "the research on actuarial measures for sexual offense recidivism has yet to demonstrate a clear superiority to the best clinical assessment methods." *Id.* at 53.

Moreover, in the views of another researcher, "there is no reliable body of empirically derived data that can inform and guide decisionmaking about reoffense risk." Prentky, *Child Sexual Molestation*, at 9. In any event, "[t]he prediction of future behaviour can never be done with certainty since people and circumstances can and do change." Hanson, *Development of a Brief Actuarial Risk Scale*, at 2.

As the foregoing demonstrates, the prediction of recidivism by individual sex offenders is fraught with uncertainty. It is thus precisely the type of area where "'legislative options

[12] The correlations range from .20 to .33. *See* Hanson, *Sex Offender Risk Assessment*, 4 Psychol., Pub. Pol'y, & L., at 63-64.

must be especially broad and courts should be cautious not to rewrite legislation.'" *Kansas v. Hendricks*, 521 U.S. 346, 360 n.3 (1997) (quoting *Jones v. United States*, 463 U.S. 354, 370 (1983)); *see also Jones*, 463 U.S. at 364 n.13 ("The lesson we have drawn is not that government may not act in the face of . . . uncertainty, but rather that courts should pay particular deference to reasonable legislative judgments.").

State legislatures are not required to wait for the scientific and criminal justice communities to analyze conclusively every category of sex offense and every nuance of the problem of recidivism and compile more perfect data-sets. A State can thus reasonably choose to protect its citizens by making relevant sex offender information accessible to the public without conducting individualized risk assessments. As explained below, doing so does not implicate constitutionally protected liberty and thus does not trigger the protections of the Due Process Clause.

II. PUBLIC ACCESS TO SEX OFFENDER REGISTRATION INFORMATION DOES NOT IMPLICATE PROCEDURAL DUE PROCESS

The court of appeals held that respondents, who have been duly convicted of serious sex offenses, have a federally protected liberty interest under the Due Process Clause which entitles them to a hearing to assess whether "they are particularly likely to be currently dangerous before being labeled as such by their inclusion in a publicly disseminated registry." Pet. App. 39a. The court thus upheld the district court's injunction "prohibit[ing] the [State] from 'disclosing or disseminating to the public, either in printed or electronic form . . . the Registry or . . . Registry information concerning'" convicted sex offenders. *Id.* at 38a. (quoting Dist. Ct. order).

As explained below, this holding is erroneous for several reasons. First, the concept of liberty as recognized by this

Court's Due Process jurisprudence does not encompass the right of convicted felons to suppress truthful information regarding their criminal histories from the public. Indeed, the court of appeals' recognition of such a liberty interest cannot be squared with the longstanding right of public access to the records of judicial proceedings. *See Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978).

Second, even assuming that making sex offender registration information available to the public stigmatizes sex offenders by falsely implying that all are "currently dangerous" when some are not, Pet. App. 18a, the injury does not amount to the deprivation of a constitutionally protected liberty interest. The court's assertion that the registration requirement can be coupled with the putative stigmatic injury to establish a deprivation of a liberty interest is likewise misplaced.

Finally, the court's requirement of individual hearings to determine whether an offender is "currently dangerous" is problematic in several respects. It ignores that some sex offenders reoffend many years after their release and that predictions of sex offender recidivism cannot be made with a high degree of accuracy. The judgment of the court of appeals should therefore be reversed.

A. A Convicted Sex Offender Does Not Have A Liberty Interest In Preventing Public Dissemination Of Registry Information

1. "The Due Process Clause . . . forbids arbitrary deprivations of liberty." *Goss v. Lopez*, 419 U.S. 565, 574 (1975). Making sex offender registration information accessible to the public is neither arbitrary governmental action, nor deprives a duly convicted sex offender of liberty.

"Sex crimes flourish in secrecy [and] [s]ex offenders have secretive and manipulative lifestyles." English, *Managing*

Adult Sex Offenders in the Community, at 2. "Many sex offenders are otherwise highly functioning people who use their social skills to commit their crimes." *Id.* Moreover, in several studies sex offenders have admitted to "vastly more" criminal paraphilic acts "than those for which they were convicted." Prentky, *Child Sexual Molestation*, at 1. "The vast majority of sex offenders are released eventually" to the community, *id.* at 8, where they are presented with the opportunity to reoffend. "[M]anag[ing] sex offenders in the community to contain them" is thus essential to protect the offenders' previous victims and to prevent new victimizations. English, *Managing Adult Sex Offenders in the Community*, at 2.

Connecticut's Sex Offender Registration Law protects public safety in three critical ways. First, it alerts authorities to the presence of a sex offender in their jurisdiction. Second, it alerts the sex offender to the fact that the authorities know where the offender lives and works. Third, by making registration information publicly accessible, it enables citizens to protect themselves and their families by determining whether a sex offender lives in their neighborhood. Relatedly, it enables citizens to determine whether persons engaged in volunteer activities such as youth groups and sports programs have a history of sex offenses. Registration and public access to registration information thus reduces the ability of an offender to operate in secrecy, an environment conducive to the commission of new sex offenses. *See id.* at 2. Connecticut's statute is thus a rational and justified response to the extraordinary problem of sex offender recidivism.

The State's publication of sex offender registration information does not implicate a liberty interest protected under the Due Process Clause. While "there exists a variety of interests which are . . . comprehended within the meaning of . . . 'liberty,'" and these interests can have their source in both

state and federal law, *Paul v. Davis*, 424 U.S. 693, 710-11 (1976), neither statutory nor constitutional law creates any right or legitimate expectation on the part of a sex offender in preventing public access to registration information. Publication of sex offender information, by itself, does not involve a governmental restraint on a sex offender's freedom of action or result in the "denial of any right vouchsafed to him by the State." *Id.* at 712. At most, it implicates a stigmatic injury, which the Court has repeatedly held does not deprive one of constitutionally protected liberty.

2. Under the Connecticut act, the sex offender registry is "a public record" which is "accessible to the public during normal business hours" and "registry information [is] available to the public through the Internet." Conn. Gen. Stat. § 54-258(a)(1) (Pet. App. 97a). Before the district court ordered the State to "take down the Registry website and cease making publicly available the Registry information," Pet. App. 69a, members of the public were "able to search the database by zip code or town name, which produced a list of all registrants within the scope of the search, or by last name or first letter thereof." *Id.* at 9a. For each name obtained in the initial search, a link to each registrant's information was provided. *See id.* As the district court found, "this page contain[ed] the registrant's name, offense, current residence address, physical description and photograph." *Id.* at 47a.[13]

[13] The web site also included a disclaimer explaining that the State "has not considered or assessed the specific risk of reoffense with regard to any individual prior to his or her inclusion within this registry, and has made no determination that any individual included in the registry is currently dangerous." Pet. App. 9a. The web site further warned that use of registration information "to injure, harass, or commit a criminal act against any person included in the registry . . . is subject to criminal prosecution." *Id.* at 9a-10a.

The State's publication of this information does not implicate a constitutionally protected liberty interest. As this Court has explained, "the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents." *Nixon*, 435 U.S. at 597 (footnotes omitted); *see also* 20 Am. Jur.2d *Courts* § 32 (2002) ("Court records are generally open to inspection by the public."). This common law right, "which antedates the Constitution and which is applicable in . . . criminal . . . cases," *Leucadia, Inc. v. Applied Extrusion Technologies, Inc.*, 998 F.2d 157, 161 (3d Cir. 1993), clearly authorizes public access to the judgments of criminal courts and records of criminal convictions. Indeed, by statute Connecticut specifically recognizes the public's right of access to the records of criminal convictions. *See* Conn. Gen. Stat. § 54-152g(a)-(c); § 54-142k(b).

Nor does the publication of a sex offender's photograph or current address implicate a constitutionally protected liberty interest. The flyer at issue in *Paul* included the plaintiff's photograph. *See* 424 U.S. at 695. Publishing the photograph did not deprive the plaintiff of a protected liberty interest. *See id.* at 712.

Likewise, addresses are found in numerous public records such as voting, motor vehicle and property tax records. While a State can protect address information from public disclosure, there is no constitutional requirement that it do so. Rather, whether such information should be protected from disclosure is a legislative policy decision. *See, e.g.*, 18 U.S.C. §§ 2721-2725 (Driver's Privacy Protection Act).[14] And even

[14] The Driver's Privacy Protection Act, for example, restricts state motor vehicle agencies from disclosing personal information including drivers' names, addresses, and photographs "obtained . . . in connection with a motor vehicle record." 18 U.S.C. § 2721(a). The Act, however,

if a State once recognized the right of convicted criminals to protect such information from disclosure, the Due Process Clause would not require the State to provide hearings following a legislative change of policy. *See Bi-Metallic Invest. Co. v. State Bd. of Equalization*, 239 U.S. 441 (1915); *see also Air Line Pilots Ass'n, Int'l v. Quesada*, 276 F.2d 892 (2d Cir. 1960), *cert. denied*, 366 U.S. 962 (1961). Connecticut's publication of registration information thus does not deny sex offenders "any right vouchsafed to [them] by the State." *Paul*, 424 U.S. at 712.

Indeed, were this so the release of information pursuant to the State's public records act would also trigger the right to a hearing. Yet the district court expressly stated that its order did not "affect the public's ability to obtain individual criminal conviction history records pursuant to" the Connecticut statutes. Pet. App. 69a. That the State chooses to make public records more easily accessible to its citizens through the use of the Internet is not constitutionally significant. As the Tenth Circuit has explained, the Internet "works merely a technological extension, not a sea change, in our nation's long history of making information public regarding criminal offenses." *Femedeer v. Haun*, 227 F.3d 1244, 1251 (10th Cir. 2000).

3. Contrary to the view of the court of appeals, the State's compiling sex offender information in a central registry and making that information available to the public does not alter this conclusion. At most, the disclosure of registration information states an injury to the reputation of sex offenders,

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authorizes disclosure for numerous purposes. *See id.* § 2721(b)(1)-(14). If the Due Process Clause created a liberty interest in non-disclosure of personal information, the Act would clearly be unconstitutional.

an injury which does not "state a claim for denial of a constitutional right" under *Paul*. *Siegert v. Gilley*, 500 U.S. 226, 233-34 (1991).[15]

While the court of appeals acknowledged that stigma alone is not enough to state a deprivation of protected liberty, the court held that the registration obligations "easily qualify as a 'plus' factor under *Paul*." Pet. App. 31a. The court so held

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[15] According to the court of appeals, the State's "publication of the registry implies that each person listed is more likely than the average person to be currently dangerous. . . . This implication stigmatizes every person listed on the registry[,]" and is false in the case of some registrants. Pet. App. 18a. Contrary to the view of the court below, studies show that previously convicted sex offenders are far more likely to commit a sex offense than are "average persons." According to a Justice Department report, which followed prisoners released from state institutions for a three-year period, "[r]eleased rapists were 10.5 times more likely than non-rapists to have a subsequent arrest for rape[,]" and "[p]risoners who had served time for other sexual assaults were 7.5 times more likely than those who had not served time for sexual assault to be arrested for a new sexual assault." Allen J. Beck & Bernard E. Shipley, U.S. Dep't of Justice, *Recidivism of Prisoners Released in 1983* 6 (rev. ed. 1997). Given that the sex offenders studied in this report were arrested for a new sex offense at a far greater rate than other released prisoners, it is rational to conclude that the rate would be even greater if the comparison were made with "average persons." Publication of the registry thus does not falsely stigmatize sex offenders, but rather merely relates a statistical fact that is true with respect to sex offenders as a class.

The court of appeals' further suggestion that sex offenders incur a legally cognizable stigmatic injury, that is proximately caused by the State's publication of the registry, is mistaken. This Court has long recognized that a conviction for a serious crime has the consequence of stigmatizing the offender. *See Reno v. ACLU*, 521 U.S. 844, 872 (1997) (referring to "the opprobrium and stigma of a criminal conviction"); *In re Winship*, 397 U.S. 358, 363 (1970) (noting "the certainty that [one found guilty of criminal behavior] would be stigmatized by the conviction"); *see also Hawker v. New York*, 170 U.S. 189 (1898). A sex offender's criminal trial is a public proceeding; the subsequent conviction is public record. To the extent there is any stigma, it is caused by these events and not the State's publication of truthful information.

notwithstanding that its hearing requirement would do nothing to remedy the intrusion of liberty it found was caused by the registration requirement, but rather would address only the injury to reputation caused by the State's publication of sex offender registration information. *Id.* at 33a-34a. This reasoning is a misreading of *Paul* and the Due Process Clause.

In *Paul*, the Court held that police distribution of a flyer, which identified the plaintiff as an "active shoplifter," 424 U.S. at 695, did not deprive the plaintiff of liberty protected by the Due Process Clause. *See id.* at 712. The *Paul* Court acknowledged that some language in earlier decisions was "sufficiently ambiguous" so as to suggest that injury to reputation "standing alone" would deprive one of protected liberty. *Id.* at 707, 709. The Court explained, however, that in each such case the state action had caused the "alter[ation] or extinguish[ment]" of "a right or status previously recognized by state law." *Id.* at 711.

For example, the posting at issue in *Wisconsin v. Constantineau*, 400 U.S. 433 (1971), had the further statutory consequence of denying the plaintiff the right to purchase alcoholic beverages, a right which others citizens of legal age possessed. As *Paul* explained, "'[p]osting,' therefore, significantly altered [Constantineau's] status as a matter of state law, and it was that alteration of legal status which, combined with the injury resulting from the defamation, justified the invocation of procedural safeguards." 424 U.S. at 708-09. *See also id.* at 710 (in *Board of Regents v. Roth*, 408 U.S. 564 (1972), "it was not thought sufficient to establish a claim . . . that there simply be defamation by a state official; the defamation had to occur in the course of the termination of employment"); *id.* (in *Goss v. Lopez*, 419 U.S. 565 (1975), the Court "took care to point out that Ohio law conferred a right upon all children to attend school, and that the act of the school officials suspending the student . . . resulted in a denial or deprivation of that right").

The Court reaffirmed these principles in *Siegert*. There the Court held that a defamatory letter written by a government official did not implicate a protected liberty interest because it was not written "incident to the termination of Siegert's employment" but rather was written "several weeks" after he had "voluntarily resigned" his position at a government hospital. 500 U.S. at 234. While acknowledging that "[t]he statement contained in the letter would undoubtedly damage the reputation of one in [Siegert's] position, and impair his future employment prospects," the Court explained that damage caused by such injuries "may be recoverable under state tort law but it is not recoverable in a *Bivens* action." *Id.*

As these cases demonstrate, injury to reputation alone does not implicate a constitutionally protected liberty interest. Rather, it is the existence of the "plus factor"—i.e., the State's deprivation of some constitutional right or protected interest—that triggers the protections of the Due Process Clause. *See Paul*, 424 U.S. at 711-12. While one may choose to use the hearing to redress the injury to one's reputation caused by a defamatory act, such redress is ancillary to the hearing's purpose, which is to prevent arbitrary deprivations of a protected interest or constitutional right. Absent the latter, there is no right to a hearing to redress an injury to reputation. The court of appeals' suggestion that its cases "have not required the plaintiff to seek a remedy for both the stigma and the 'plus' factor," Pet. App. 34a, simply ignores that there must be a deprivation of a protected liberty interest for one to be entitled to any hearing at all.[16]

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[16] In support of this assertion, the court of appeals cited two decisions: *Donato v. Plainview-Old Bethpage Cent. School Dist.*, 96 F.3d 623 (2d Cir. 1996), *cert. denied*, 519 U.S. 1150 (1997), and *Brandt v. Board of Cooperative Ed. Servs.*, 820 F.2d 41 (2d Cir. 1987). *See* Pet. App. 34a. Both of these cases, however, involved the termination of public

Significantly, the "plus" factor cited by the court of appeals—the imposition of the registration obligation—does not arise because the State published sex offender information. Moreover, the registration requirement is not triggered by a potentially arbitrary act of an executive branch official that materially alters or extinguishes some existing right or interest. Rather, it is an independent requirement of a legislative scheme applicable to a large class of people. *See, e.g.*, *Bi-Metallic Inv. Co.*, 239 U.S. at 445. As a leading authority explains, "[p]rocedural due process does not apply when government makes a policy decision that has an adverse impact on an entire classification of individuals or firms . . . even if the decision has the same adverse effect on the interests of the members of the group as would an individualized deprivation." II Kenneth Culp Davis & Richard J. Pierce, Jr., *Administrative Law Treatise* § 9.2, at 3 (3d ed. 1994); *see also Quesada*, 276 F.2d at 896 (FAA regulation revoking pilots' licenses at age sixty without a hearing did not violate due process).

Indeed, registration is a common regulatory tool that is used in a variety of contexts. *See* 50 U.S.C. App. § 453 (2002) (Selective Service); 2 U.S.C. § 1603(a)(1) (2002) (lobbyists); 22 U.S.C. § 612(a) (2002) (foreign agents); http://www.nonprofits.org/library/gov/urs/#yes_states (listing

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employment and relied on *Board of Regents v. Roth*, 408 U.S. 564, 573 (1972). *See Donato*, 96 F.3d at 633; *Brandt*, 820 F.2d at 43. The Court explained in *Paul* that "[w]hile *Roth* recognized that governmental action defaming an individual in the course of declining to rehire him could entitle the person to notice and an opportunity to be heard as to the defamation, its language is quite inconsistent with any notion that a defamation perpetrated by a government official but unconnected with any refusal to rehire would be actionable under the Fourteenth Amendment." 424 U.S. at 709; *see also id.* at 710 (not "sufficient to establish a claim under section 1983 and the Fourteenth Amendment that there simply be defamation by a state official; the defamation had to occur in the course of the termination of employment").

States requiring registration of charitable solicitors). As long as a registration scheme does not burden fundamental rights or a protected class, its legislative imposition does not implicate a protected liberty interest and the right to a hearing to determine whether one can be subjected to it.

In any event, the State's registration requirement cannot be deemed a "plus factor" because even if the obligations of registration and periodic verification amount to a deprivation of liberty, each registrant has been provided pre-deprivation process in the form of a criminal trial. At trial, sex offenders are accorded the most substantial protections recognized by the Constitution, including the right to be represented by counsel, the right to confront and cross-examine all witnesses, the right to an impartial jury, and the requirement that the State prove beyond a reasonable doubt every element of the offense. *See* U.S. Const. Amend. VI; *In re Winship*, 397 U.S. 358, 364 (1970).

"[T]he deprivation by state action of a constitutionally protected interest in 'life, liberty, or property' is not in itself unconstitutional; what is unconstitutional is the deprivation of such an interest *without due process of* law." *Zinermon v. Burch*, 494 U.S. 113, 125 (1990) (citing *Parratt v. Taylor*, 451 U.S. 527, 537 (1981)). As the Court has further explained, "[p]rocedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U.S. 247, 259 (1978).

A State can reasonably conclude that a sex offender's obligation to register can be triggered by a judicial determination that the offender committed a sex offense and not by the additional and indeterminate "finding" that the offender is "currently dangerous." Because the State, through a criminal trial, has already provided sex offenders with an adequate remedy to protect against unjustified impositions of the registration obligation, further hearings are not required. *Cf.*

Dixon v. Love, 431 U.S. 105, 113-14 (1977) (upholding summary revocation of driver's license based on judicial convictions for traffic offenses). The registration obligation is thus not a valid "plus factor" under *Paul*; the sex offenders' claim states at most an injury to reputation that is not actionable under the Due Process Clause.

B. The Court of Appeals' Hearing Requirement Is Problematic

There are additional reasons for reversing the court of appeals' holding that Connecticut is constitutionally required to provide hearings to determine whether sex offenders "are particularly likely to be currently dangerous" before making their registration information publicly accessible. Pet. App. 39a. As explained below, the court's hearing requirement would undermine public safety while doing little to redress the purported stigmatic injury incurred by sex offenders.

The court of appeals' standard of whether an offender is "particularly likely to be currently dangerous," *id.*, is problematic in several respects. First, while this inquiry might have some relevance if the State was attempting to commit an offender to a treatment facility, *cf. Hendricks*, 521 U.S. at 357-58, it should not be judicially imposed when the interest at stake does not involve a restraint on liberty but rather the interest of convicted sex offenders in avoiding the implied stigma allegedly created by a State's compilation of truthful information in a publicly accessible database.

More significantly, while the standard appears to require an estimation of an offender's probability of reoffense, the prediction of sex offender recidivism is an area of great complexity and uncertainty. As explained previously, sex offender recidivism research indicates that reported recidivism rates are widely acknowledged to substantially underreport the actual level of reoffending. *See* discussion *supra*, at pp. 5-7. It is unwarranted to require a State to hold a

hearing to assess the probability of an offender's reoffending when the statistical basis for making the prediction—the actual base rates of sex offender recidivism—are unknown and reported rates are believed to widely underestimate the level of reoffending.

Moreover, social science research indicates that the available methods of predicting sex offender recidivism have only moderate predictive accuracy and thus have substantial error rates. *See* Hanson, *Sex Offender Risk Assessment*, 4 Psychol., Pub. Pol'y, & L., at 63-64. As explained previously, clinicians' predictions of sex offender recidivism have poor predictive accuracy, *see id.* at 54, "[t]he existing actuarial scales cannot even claim to address all the relevant static risk factors," *id.* at 65, and "a reliable set of dynamic risk factors has yet to be established." *Id.* at 68. When clinicians cannot accurately predict the likelihood of reoffense and "there is no reliable body of empirically derived data that can inform and guide decisionmaking about reoffense risk," Prentky, *Child Sexual Molestation*, at 9, individualized hearings would serve no purpose.

Additionally, the court of appeals' view that a hearing should be limited to assessing whether an offender is "currently dangerous" would jeopardize public safety. The court's standard ignores that "most reoffenses do not occur within the first several years after release" and that some sex offenders have been found to reoffend more than twenty years following their release. *Id.* at 14. Moreover, the court's formulation reflects a misunderstanding of the dynamics of sex offender recidivism. Even if such a hearing could determine an offender's risk at a particular point in time, it could not possibly predict future changes in an offender's post-hearing environment and other circumstances that may result in the offender committing a new sex offense.

For example, an offender might become a substance abuser, have an increase in deviant sexual urges, or have

greater access to potential victims, all of which are dynamic risk factors for reoffense. *See* Hanson & Harris, *Dynamic Predictors of Sexual Recidivism*, at 16-18, 21. Moreover, as Hanson and Thornton explain, "[a]n offender with a 10% chance of sexual recidivism over 15 years may be [a] good candidate for conditional release (i.e., 'low' risk), but an *unacceptably high risk* for holding positions of trust over children." *Improving Actuarial Risk Assessments for Sex Offenders*, at 16 (emphasis added).[17]

Thus, even offenders classified as "low risk" can reoffend. While the court of appeals expressly declined to address whether a State could make publicly available information about those offenders determined "not to be currently dangerous," Pet. App. 39a, each possible alternative demonstrates the problematic nature of the court's holding. If such information cannot be made publicly available, public safety will be jeopardized because potential victims—and those responsible for protecting them—will have been denied important information about the offender.

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[17] Contrary to the views of respondents (*see* Opp. at 26), *Schall v. Martin*, 467 U.S. 253 (1984), is inapposite. *Schall* involved non-sexual criminal conduct. *See* 467 U.S. at 257-60. As explained above, although "researchers have made significant advances in risk assessment procedures" with respect to the prediction of "general criminal recidivism," Hanson, *Sex Offender Risk Assessment*, 4 Psychol., Pub. Pol'y, & L., at 50, "there appear to be some differences between the factors that predict sexual offenses and the factors that predict other types of violence." *Id.* at 50-51. Thus, the measures used to predict general criminal recidivism "have not been particularly effective in predicting sexual recidivism." *Id.* at 52.

To be sure, the most dangerous sexual offenders can be determined with a high degree of predictive accuracy. But "setting a high threshold, while reducing the rate of false positives, will likely lower the rate at which recidivists are accurately identified" by the assessment tool. *See* Virginia Crim. Sent. Comm'n, *Assessing Risk*, at 91. In other words, there will be a substantial error rate with respect to those predicted "not to be currently dangerous."

The other possibility—that public disclosure is permissible so long as the State indicates that the offender has been assessed as a "low" or "moderate" risk—presents additional problems. Limiting the amount of information made publicly available by stating that an offender has been determined "not to be currently dangerous" risks misleading the public as to the potential risk the offender poses in certain situations. If, however, the State's registry were to list the specific situations in which a low risk offender poses a high risk, then the offender is further stigmatized. *See, e.g.*, Hanson & Thornton, *Improving Actuarial Risk Assessments*, at 16. Classifying offenders as "low" or "moderate" risk thus could be more stigmatizing than the system used by Connecticut and many other States.

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The court of appeals disregarded this Court's settled instruction that "when a legislature 'undertakes to act in areas fraught with medical and scientific uncertainties, legislative options must be especially broad and courts should be cautious not to rewrite legislation.'" *Hendricks*, 521 U.S. at 360 n. 3 (quoting *Jones v. United States*, 463 U.S. at 370). Connecticut's Sex Offender Registration Act is a reasonable legislative response to the problems inherent in predicting sex offender recidivism. The State's declination to provide risk-based assessments of registrants does not implicate any interest protected by the Due Process Clause.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted,

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